

DECLARATION OF SID MILLER

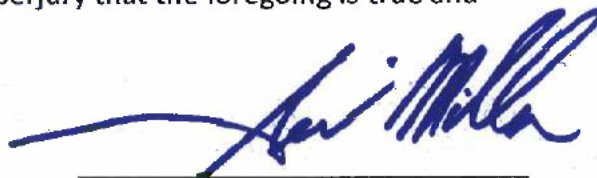
I, Sid Miller, am over the age of 18 and fully competent in all respects to make this declaration. Pursuant to 28 U.S.C. § 1746, I declare that:

1. I make this declaration on the basis of my own personal and professional knowledge.
2. The Texas Department of Agriculture (the "TDA") is an agency of the State of Texas responsible for matters related to agriculture and rural community affairs.
3. Since January 5, 2015 when I took the oath of office in my initial term as a statewide elected official, I have served as Commissioner for Agriculture for the State of Texas. My duties as Commissioner are to oversee TDA and all its statutory functions. By virtue of my position as Commissioner, I am familiar with all aspects of TDA's policies and practices.
4. TDA receives grants of federal funding both as a direct recipient and subrecipient. During the previous fiscal year (FY 2023), TDA spent approximately \$462 million in federal funds on its own activities. Additionally, TDA served as a pass-through for an additional \$873 million, meaning that TDA received approximately \$1.3 billion in federal dollars. These figures are representative of the amounts of federal spending that TDA receives in a typical year.
5. While TDA does receive funding from the United States Department of Health and Human Services ("HHS"), none of the federal funding it receives is disbursed under 29 U.S.C. Ch. 16 or any federal grant program related to disability.
6. I have reviewed the Final Rule promulgated by the Secretary of Health and Human Services on May, 9, 2024, entitled "Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance" (the "Final Rule"), published on the online Federal Register at <https://www.federalregister.gov/documents/2024/05/09/2024-09237/nondiscrimination-on-the-basis-of-disability-in-programs-or-activities-receiving-federal-financial#footnote-1-p40066>. I understand it to communicate HHS's view that gender dysphoria is a condition that is eligible to be classified as a disability under Section 504 of the Rehabilitation Act. I therefore understand that the Final Rule—if it is upheld as lawful—will require recipients of federal funding to accommodate the gender identity of persons with gender dysphoria who meet the other criteria for claiming federal disability.
7. The Final Rule conflicts with TDA's Dress Code and Grooming Policy. This policy is attached to this Declaration as Exhibit A.
8. TDA has an agencywide dress code that has been in place since April 2023. TDA's dress code sets professional standards for workplace attire that differ according to employee sex, and accordingly it specifies that "[e]mployees are expected to comply with this

dress code in a manner consistent with their biological gender.” TDA intends this requirement be understood as referring to an employee’s objective, biological sex rather than to subjective gender identity.

9. As an example of TDA’s sex-differentiated standard, the policy considers a dress to be appropriate office wear for female employees but not for male employees.
10. TDA occupies and uses offices across Texas at facilities that are owned or leased by TDA, other organs of the State, or private entities. TDA complies with the Texas Facilities Commission’s Tenant Manual (“Manual”) at all its properties. Under the Manual, TDA makes either sex-segregated or unisex single-occupancy bathrooms available to its employees. TDA would not allow any employee to use restrooms designated for the opposite sex.
11. Under the Final Rule, to avoid loss of federal funding and other consequences, TDA will need to rescind its current sex-differentiated dress code and grooming standards and devote significant time and resources to updating its policies and training programs.
12. Likewise, TDA will need to permit gender dysphoric employees claiming disability to use restrooms reserved for the opposite sex in contravention of its current policy.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on this 24th day of September 2024.



Sid Miller

Texas Agriculture Commissioner